

AMENDED IN ASSEMBLY MAY 5, 2003

AMENDED IN ASSEMBLY MAY 1, 2003

AMENDED IN ASSEMBLY APRIL 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 578

Introduced by Assembly Member Leno

February 18, 2003

An act to ~~amend Section 27361.4 of~~ *add Section 27362 to,*, to add Article 6 (commencing with Section 27390) to Chapter 6 of Division 2 of Title 3 of, and to repeal Sections 27279.4 and 27398 of, the Government Code, relating to county recorders, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 578, as amended, Leno. County recorders: electronic recording.

(1) Existing law generally specifies that the recorder of any county may, in lieu of a written paper, accept for recording a digitized image of a recordable instrument, subject to specified conditions.

This bill would enact the Electronic Recording Delivery System Act of 2003, to authorize a county recorder, *upon approval by resolution of the board of supervisors and system certification by the Attorney General*, to establish an electronic recording delivery system for the recording of digitized electronic records affecting the right, title, or interest in real property, subject to specified conditions, including *system certification*, regulation, and oversight by the Attorney General. It would authorize the Attorney General to charge a fee directly to a

vendor seeking approval of software and other services as part of an electronic recording delivery system. *It would require an applicant seeking authorization to submit documents electronically to obtain approval of the county recorder.*

This bill would specify that an applicant approved to submit documents electronically is liable for economic loss due to negligence, fraud, or breach of duty in relation to an electronic recording delivery system, as specified. It would authorize the Attorney General or a district attorney to seek a civil penalty of up to \$50,000 for each violation of the provisions of the act enacted by the bill or its implementing regulations and to seek specified civil remedies.

This bill would, until January 1, 2011, authorize up to 12 counties, subject to approval by their respective boards of supervisors, to participate in an electronic recording pilot project utilizing digital electronic records to record real property documents, subject to specified criteria. The Attorney General would be required to evaluate the pilot projects and report to both houses of the Legislature on or before June 30, 2007.

(2) Existing law authorizes the board of supervisors of any county to provide for specified fees for the filing and indexing of documents with the county recorder.

~~This bill would authorize the board of supervisors of any county to provide for an additional fee of up to \$1 per document for recording of a document electronically. It would authorize charging this fee for a period of up to 5 years after a county implements an electronic recording system~~ *provide that a county establishing an electronic recording delivery system shall pay for the direct cost of regulation and oversight by the Attorney General and, to pay these costs, authorize the county to impose a fee of up to \$1 for each instrument recorded, impose a fee upon any vendor seeking approval of software and other services as part of an electronic recording delivery system, and impose a fee upon any person seeking approval as an authorized submitter of electronic records.*

(3) Existing law requires the Attorney General to appoint an Electronic Recordation Task Force, consisting of specified representatives, to meet on a regular basis to address the technical, legal, security, and economic issues associated with electronic recordation, and recommendations on specified issues.

This bill would repeal this provision.



(4) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 27279.4 of the Government Code is
2 repealed.

3 ~~SEC. 2. Section 27361.4 of the Government Code is amended~~
4 ~~to read:~~

5 ~~27361.4. (a) The board of supervisors of any county may~~
6 ~~provide for an additional fee of one dollar (\$1) for filing every~~
7 ~~instrument, paper, or notice for record, in order to defray the cost~~
8 ~~of converting the county recorder's document storage system to~~
9 ~~micrographies. Upon completion of the conversion and payment~~
10 ~~of the costs therefor, this additional fee shall no longer be imposed.~~

11 ~~(b) The board of supervisors of any county may provide for an~~
12 ~~additional fee, other than the fees authorized in subdivisions (a)~~
13 ~~and (c), of one dollar (\$1) for filing every instrument, paper, or~~
14 ~~notice for record provided that the resolution providing for the~~
15 ~~additional fee establishes the days of operation of the county~~
16 ~~recorder's offices as every business day except for legal holidays~~
17 ~~and those holidays designated as judicial holidays pursuant to~~
18 ~~Section 135 of the Code of Civil Procedure.~~

19 ~~(c) The board of supervisors of any county may provide for an~~
20 ~~additional fee, other than the fees authorized in subdivisions (a)~~
21 ~~and (b), of one dollar (\$1) for filing every instrument, paper, or~~
22 ~~notice for record provided that the resolution providing for the~~
23 ~~additional fee requires that the instrument, paper, or notice be~~
24 ~~indexed within two business days after the date of recordation.~~

25 ~~(d) The board of supervisors of any county may provide for an~~
26 ~~additional fee, other than the fee provided for in subdivisions (a),~~
27 ~~(b), and (c), of up to one dollar (\$1) per document for recording~~
28 ~~a document electronically. This additional fee may be charged for~~
29 ~~up to five years after the implementation of an electronic recording~~
30 ~~system.~~

31 ~~SEC. 2. Section 27362 is added to the Government Code, to~~
32 ~~read:~~

1 27362. (a) A county establishing an electronic recording
2 delivery system under Article 6 (commencing with Section 27390)
3 shall pay for the direct cost of regulation and oversight by the
4 Attorney General.

5 (b) The Attorney General may charge a fee directly to a vendor
6 seeking approval of software and other services as part of an
7 electronic recording delivery system.

8 (c) In order to pay costs under this section, a county may do any
9 of the following:

10 (1) Impose a fee of up to one dollar (\$1) for each instrument
11 that is recorded by the county. This fee may, at the county's
12 discretion, be limited to instruments that are recorded pursuant to
13 the electronic recording delivery system.

14 (2) Impose a fee upon any vendor seeking approval of software
15 and other services as part of an electronic recording delivery
16 system.

17 (3) Impose a fee upon any person seeking approval as an
18 authorized submitter.

19 (d) A fee assessed pursuant to this section may not exceed the
20 reasonable costs of providing the services for which the fee is
21 charged.

22 SEC. 3. Article 6 (commencing with Section 27390) is added
23 to Chapter 6 of Division 2 of Title 3 of the Government Code, to
24 read:

25
26 Article 6. Electronic Recording Delivery System Act of 2003

27
28 27390. (a) This article shall be known and may be cited as the
29 Electronic Recording Delivery System Act of 2003.

30 (b) For purposes of this article, the following definitions shall
31 apply:

32 (1) "Authorized staff" means either of the following:

33 (A) Any employee, contractor, designee, or agent of an
34 authorized submitter to an electronic recording delivery system.

35 (B) Any employee, contractor, designee, or agent of a county
36 recorder who is entrusted with access to the electronic recording
37 delivery system.

38 (2) "Authorized submitter" means any of the following
39 entities that has complied with this article, *including Sections*
40 *27391 and 27392*, and including any regulations adopted pursuant

1 to this article, and that has ~~contracted with~~ *been approved by, and*
2 *contracted with*, a county recorder to electronically record
3 documents:

4 (A) An entity, agency, branch, or instrumentality of local, state,
5 or federal government.

6 (B) A licensed title insurance company as defined in Section
7 12340.4 or 12340.5 of the Insurance Code, ~~or an escrow company~~
8 ~~subject to Chapter 2 (commencing with Section 17200) of~~
9 ~~Division 6 of the Financial Code.~~

10 (C) The Federal National Mortgage Association (Fannie Mae)
11 or the Federal Home Mortgage Association (Freddie Mac).

12 (D) An institutional ~~investor~~ *lender* as defined in subdivision
13 ~~(i)~~ (j) of Section 5003 of the Financial Code.

14 (E) *An escrow company subject to Chapter 2 (commencing*
15 *with Section 17200) of Division 6 of the Financial Code, if all of*
16 *the following apply:*

17 (i) *It has been audited regularly and no audit within the last*
18 *three years indicates any irregularity or violation.*

19 (ii) *It is a member in good standing of the Escrow Agents*
20 *Fidelity Corporation.*

21 (iii) *It has a license in good standing from the Department of*
22 *Corporations.*

23 (F) Any additional submitter determined by a county recorder
24 to be eligible pursuant to Section 27391.

25 (3) “Computer security auditor” means accredited computer
26 security personnel, hired from either the public or private sector,
27 to perform an independent audit or review of the electronic
28 recording delivery system. The computer security auditor shall be
29 independent of the county and shall not be the same contractor
30 hired to establish or participate in that electronic recording
31 delivery system or in any other county’s electronic recording
32 delivery system.

33 (4) “Digital electronic record” means a record containing
34 information that is created, generated, sent, communicated,
35 received, or stored by electronic means, but not created in original
36 paper form.

37 (5) “Digitized electronic record” means a scanned image of
38 the original paper document.

(6) “Document” means an instrument or record that otherwise meets the requirements of this article and affects the right or title to, interest in, or possession of, real property.

(7) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) “Electronic document” means a document that is created, generated, sent, communicated, or received by electronic means.

(9) “Electronic recording delivery system” means a system to deliver for recording, and for return to the party requesting recording, digitized electronic records affecting the right, title, or interest in real property.

(10) “Electronic signature” means an electronic sound, symbol, or process attached to or logically associated with an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(11) “Security testing” means an independent computer security audit, including, but not limited to, the use of computer security auditors to attempt to penetrate an electronic recording delivery system for the purpose of testing the security of that system. Security testing, including penetration studies, shall be subject to regulation by the Attorney General.

(12) “Source code” means a program or set of programs readable and maintainable by humans, translated or interpreted into a form that the electronic recording delivery system can execute.

(13) “System certification” means issuance of a confirmation letter regarding a specific electronic recording delivery system by the Attorney General. The system certification shall include any agreements between the Attorney General as to the operation of the electronic recording delivery system, including, but not limited to, the frequency of computer security audits.

~~27391. In addition to any other person or entity described in paragraph (2) of subdivision (b) of Section 27390 as an authorized submitter, the county recorder may in his or her discretion determine other persons or entities to be authorized submitters.~~

27391. Any applicant seeking authorization to submit documents under this article shall obtain approval of the county recorder. The county recorder shall have discretion to grant approval based upon the requirements of this article and

regulations adopted pursuant to this article. The recorder shall be guided in the exercise of his or her discretion by the following factors:

(a) Whether accepting electronically delivered records from the person or entity is in the best interest of the county and the public.

(b) Whether the person or entity requesting access to the program for the purpose of electronically delivering documents has effective security precautions in place to safeguard against potential fraud and forgery of documents during the electronic delivery process.

(c) (1) Whether the person or entity requesting access demonstrates the maintenance of sufficient financial ability to indemnify losses for which it is responsible that might be suffered by the county or members of the public. ~~The~~

(2) ~~The~~ recorder may in his or her sole discretion consider or require net worth, maintenance of insurance or bonding, access to indemnity or fidelity funds, other evidences of financial ability, or any combination thereof.

(d) Whether the volume and quality of electronic records submitted will be sufficient to warrant electronic delivery.

(e) Whether factors of cost, capacity, or security require the limitation of the provision of access to persons requesting to participate, based upon business reasons for recording documents, scope of authority under a license, if any, and volume of documents recorded in previous years.

(f) *Whether the authorized submitter is legally authorized to conduct business in this state.*

(g) *Whether a person applying under subparagraph (F) of paragraph (2) of subdivision (b) of Section 27390 regularly recorded documents in the county during the three-year period prior to the date of application in sufficient numbers to demonstrate a business need to record electronically. It is the intent of the Legislature that county recorders consider approving authorized submitters under this section after developing experience in the operation of an electronic recording delivery system, including protection of security.*

27392. (a) ~~A~~ Upon approval by resolution of the board of supervisors and system certification by the Attorney General, a

1 county recorder may establish an electronic recording delivery
2 system in accordance with this article.

3 (b) Any system developed pursuant to this article shall provide
4 for proper offsite archival procedures in accordance with
5 guidelines developed pursuant to Section 12236.

6 (c) Any system developed pursuant to this article shall require
7 a governing contractual relationship between the recorder and
8 each authorized submitter that includes, but need not be limited to,
9 the following components:

10 (1) A requirement that the submitter comply with this article
11 and any implementing regulations.

12 (2) Provisions governing the identification and supervision of
13 authorized staff.

14 (3) Mutually agreed upon standards of operation of the
15 electronic recording delivery system.

16 (4) Permission by the submitter for security testing.

17 (5) A provision specifying that the agreement may be
18 terminated at any time.

19 (d) Notwithstanding Section 27203, a recorder may refuse to
20 enter an agreement with an authorized submitter, or may refuse to
21 accept an electronically delivered document from an authorized
22 submitter whenever any of the following occur:

23 (1) The submitter or authorized staff has been convicted of a
24 ~~crime related to fraud or dishonesty.~~ *felony or misdemeanor*
25 *related to fraud or of a crime of moral turpitude.*

26 (2) The recorder reasonably believes that the submitter or
27 authorized staff has engaged in improper conduct relating to the
28 recording of documents.

29 (3) The recorder reasonably believes that the submitter or
30 authorized staff has violated any provision of the contractual
31 agreement required by this article.

32 (e) The county recorder may terminate access to any electronic
33 recording delivery system, or any part of a system, or may
34 terminate access of any authorized submitter, or any authorized
35 staff, at any time he or she deems it necessary to protect the public
36 interest, to protect the integrity of public records, to protect
37 homeowners or real property owners from financial harm, or in the
38 event an authorized submitter or its agents or employees violates
39 any rules or regulations established by the county recorder for
40 maintenance of the system. No cause of action or liability against

1 the county recorder or any government agency shall arise from the
2 decision of the county recorder to terminate or deny access of any
3 person to the electronic recording delivery system.

4 27393. (a) To be eligible to establish an electronic recording
5 delivery system, a county or county recorder shall contract with,
6 and obtain a report from, a computer security auditor selected from
7 a list of computer security auditors approved by the Attorney
8 General.

9 (b) The Attorney General shall approve computer security
10 auditors on the basis of significant experience in the evaluation and
11 analysis of Internet security design, the conduct of security testing
12 procedures, and specific experience performing Internet
13 penetration studies.

14 (c) The Attorney General shall complete the approval of
15 security auditors within 90 days of a request from a county
16 recorder. The list shall be a public record. The computer security
17 auditor shall conduct ongoing monitoring of the electronic
18 recording delivery system and issue periodic reports, with the
19 frequency of monitoring and reporting to be determined by
20 regulation. The reports of the computer security auditor shall
21 include, but not be limited to, all of the following considerations:

22 (1) Safety and security of the proposed system, including the
23 vulnerability of the electronic recordation system to fraud or
24 penetration.

25 (2) Results of testing of the system's protections against fraud
26 or intrusion, including security testing and penetration studies.

27 (3) Recommendations of any additional precautions or
28 provisions needed to ensure that the proposed system is as secure
29 and protects the integrity of the recorder's records.

30 (d) Upon completion, the reports and any response to any
31 recommendations shall be transmitted to the board of supervisors,
32 the county district attorney and the Attorney General. A county
33 may not begin an electronic recording delivery system until
34 security testing, as defined in paragraph (11) of subdivision (b) of
35 Section 27390, has demonstrated that the system is secure and
36 system certification has occurred. The Attorney General shall not
37 approve any electronic recording delivery system, unless it fulfills
38 the requirements of this article and the regulations of the Attorney
39 General.

1 (e) An electronic recording delivery system shall be audited, at
2 least once during the first year of operation and periodically
3 thereafter, as set forth in regulation and in the system certification,
4 by a computer security auditor. The nature and scope of the audit
5 shall conform to this article and regulations adopted pursuant to
6 this article. Audit reports shall be submitted to the Attorney
7 General, the county district attorney, and the county recorder. In
8 conducting the audit, the primary role of the computer security
9 auditor shall be to protect the public interest and ensure that
10 electronic recording delivery systems are reliable and secure.

11 (f) A computer security auditor shall have access to any aspect
12 of an electronic recording delivery system, in any form requested.
13 Auditor access shall include, but not be limited to, permission for
14 a thorough examination of source code and the associated
15 approved escrow facility, and necessary authorization and
16 assistance for a penetration study of that system.

17 (g) If the county recorder, a computer security auditor, a district
18 attorney for a county participating in the electronic recording
19 delivery system, or the Attorney General reasonably believes that
20 an electronic recording delivery system is vulnerable to fraud or
21 intrusion, the county recorder, the board of supervisors, the district
22 attorney, and the Attorney General shall be immediately notified.
23 The county recorder shall immediately take the necessary steps to
24 guard against any compromise of the electronic recording delivery
25 system, including, if necessary, the suspension of the electronic
26 recording delivery system.

27 27394. (a) In lieu of the requirements set forth in Section
28 27321, after acceptance for recording, the county recorder shall
29 electronically transmit a copy of each recorded electronic
30 document accepted under this article to the authorized submitter.
31 The authorized submitter shall be responsible for mailing either by
32 United States Postal Service or electronically a copy of the
33 recorded electronic document to the address specified in the
34 instructions for mailing upon completion of recording.

35 (b) When a signature is required to be accompanied by a
36 notary's seal or stamp, that requirement is satisfied if the electronic
37 signature of the notary contains all of the following:

- 38 (1) The name of the notary.
39 (2) The words "Notary Public."



(3) The name of the county where the bond and oath of office of the notary are filed.

(4) The sequential identification number assigned to the notary, if any.

(5) The sequential identification number assigned to the manufacturer or vendor of the notary's physical or electronic seal, if any.

(c) In addition to, and notwithstanding Section 27361.5, a county recorder, with approval by resolution of the board of supervisors, may require, but need not be limited to, the following index information on the first page or sheet of a digital or digitized electronic document presented for recording:

(1) The parcel identifier number of the real estate.

(2) The address of the real estate, to the extent available.

(3) The name of the authorized submitter presenting the document for recording.

(4) The name of the authorized requestor of a document for recording.

(5) The marital, corporate, partnership, or other similar legal status of a person who is a party to the document.

(6) The date of the document.

(7) The number of pages or sheets contained in the record, including the first page or sheet.

(8) The transmittal information to identify the sender and provide recording record information.

(9) *If the document is a grant deed, quitclaim deed, or deed of trust, evidence that the grantor has given informed consent to the use of an electronic document.*

27395. (a) (1) All individuals who are entrusted with access to the electronic recording delivery system as authorized staff, or a computer security auditor, shall submit two 8" by 8" fingerprint cards bearing the legible rolled and flat impressions of their fingerprints together with a personal description, prepared by a local public law enforcement agency, which shall transmit the card to the Bureau of Criminal Identification and Information in the Department of Justice. Positions subject to this subdivision shall be determined by regulation and shall be set forth in a county's system certification.

(2) The Attorney General may utilize an alternate system of examining fingerprints if that system meets the same standard of

1 reliability and security set forth in this subdivision and is approved
2 and operated by the Department of Justice.

3 (3) The Department of Justice may forward one copy of the
4 applicant's fingerprint cards to the Federal Bureau of Investigation
5 for the purpose of obtaining any record of previous out-of-state
6 conviction of an applicant.

7 (b) The Department of Justice shall ascertain whether an
8 individual applicant authorized staff or an individual applicant
9 computer security auditor has suffered a felony conviction or a
10 misdemeanor conviction for theft, fraud, or moral turpitude,
11 including whether the individual applicant has pending criminal
12 charges within the State of California. No individual applicant
13 classified as authorized staff or as a computer security auditor may
14 be employed in the security status of having access to the
15 electronic recording delivery system, if he or she has suffered a
16 felony conviction or misdemeanor conviction for theft, fraud, or
17 crimes of moral turpitude, nor may the applicant have pending
18 criminal charges of felony violations or allegations of
19 misdemeanor charges for theft, fraud, or crimes of moral
20 turpitude, as detailed in the criminal history information that is
21 reviewed by the Department of Justice. A plea or verdict of guilty
22 or a finding of guilt by a court in a trial without a jury for forfeiture
23 of bail is deemed to be a conviction within the meaning of this
24 article, irrespective of a subsequent order under the provisions of
25 Section 1203.4 of the Penal Code allowing the withdrawal of the
26 plea of guilty and entering of a plea of not guilty, or setting aside
27 the verdict of guilty, or dismissing the accusations or information.

28 (c) The Department of Justice shall charge a fee sufficient to
29 cover the cost of processing the fingerprint submission and to
30 cover the cost of the Department of Justice maintaining and storing
31 all applicant records.

32 (d) Once the Department of Justice has ascertained the criminal
33 history information of an applicant, it shall forward a written
34 notification of criminal convictions or pending criminal charges,
35 or both, to the division of the Office of the Attorney General
36 charged with oversight duties regarding this article.

37 (e) The Attorney General shall deliver written notification of
38 an applicant's ineligibility for access to an electronic recording
39 delivery system to an applicant, his or her known employer,
40 whether it be a public or private employer, to the related authorized

submitter, and to the county recorder of the jurisdiction where the applicant seeks access to an electronic recording delivery system.

27396. County recorders are encouraged to experiment with notices to property owners to help them become aware of possible fraudulent or erroneous recordings against their properties.

27397. (a) The Attorney General shall, in consultation with the County Records Association of California and the California District Attorneys Association, adopt regulations establishing standards for the review and approval by county recorders of systems and processes to conduct electronic recording and providing for the regulatory oversight of electronic recording delivery systems. Regulations shall be adopted pursuant to the Administrative Procedures Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3.

(b) No electronic recording delivery system may become operational without the approval of the Attorney General pursuant to applicable regulations adopted pursuant to this article.

(c) The regulations shall include general guidelines relating to security, capacity, reliability, and uniformity, and shall comply with Section 12168.7. The regulations shall establish minimum standards to ensure that a county recorder has the capability of identifying security problems that may make the system susceptible to fraud or any attempt to tamper with official records, and shall establish specific guidelines, including the approximate frequency of security testing, and standards for security and security testing.

(d) The regulations governing security shall require that each electronic recording delivery system comply with all requirements deemed by the Attorney General to be consistent with the public interest in electronic recording delivery systems being as reliable and secure as possible.

(e) The regulations shall also contain all of the following:

(1) A statement of a uniform definition of the term “source code” consistent with this article and applicable to every electronic recording delivery system throughout the State.

(2) The placement of an exact copy of each source code associated with each approved electronic recording project in an approved escrow facility prior to that system’s first use.

(3) A requirement that any modification to a source code held in escrow that is associated with an approved electronic recording delivery system be approved by the Attorney General.

(4) An expression of standardized policies and procedures for the establishment and operation of approved escrow facilities.

(5) Establishment of baseline technological and procedural specifications for electronic recording delivery systems.

(f) Regulations may also provide for initial certification of vendors offering software and other services to counties for electronic recording delivery systems.

(g) The Attorney General shall monitor the security of electronic recording delivery systems statewide, in close cooperation with county recorders. In the event of an emergency involving multiple fraudulent transactions linked to one county's use of an electronic recording delivery system, the Attorney General may order the suspension of electronic recording delivery systems in any county or in multiple counties, if necessary to protect the security of the system, for a period of up to seven calendar days.

(h) The Attorney General or a district attorney may ~~initiate an action for declaratory or injunctive relief~~ *bring an action in the name of the people of the State of California seeking declaratory or injunctive relief, restitution, rescission, disgorgement of profits, or other equitable relief* pertaining to any alleged violation of this article or regulations adopted pursuant to this article.

(i) An electronic recording delivery system shall be subject to local inspection and review by the Attorney General. The Attorney General shall furnish a statement of any relevant findings associated with a local inspection to the county recorder of the inspected electronic recording delivery system and to all technology vendors associated with that system.

27397.5. (a) *In addition to any other relief available pursuant to this article, the Attorney General or a district attorney may seek a civil penalty of up to fifty thousand dollars (\$50,000) for each violation of this article or its implementing regulations.*

(b) *In addition to any other civil liability provided under law, all applicants approved by the recorder and authorized to submit documents are liable for economic loss due to negligence, fraud, or breach of fiduciary duty in relation to an electronic recording delivery system or due to the failure to comply with this article,*

1 *with regulations adopted pursuant to this article, or with its*
2 *contract with the county recorder. Liability extends to acts or*
3 *omissions of authorized staff and any other agent or employee.*
4 *This liability shall lie notwithstanding any contrary waiver or*
5 *disclaimer in any title insurance policy, escrow instruction, or*
6 *other document pertaining to the real estate transaction*
7 *associated with the loss.*

8 27398. (a) Subject to the approval of their respective boards
9 of supervisors, up to 12 counties may participate in an electronic
10 recording pilot project utilizing digital electronic records to record
11 real property documents.

12 (b) Except as set forth in this section, the requirements
13 contained in this article shall apply to an electronic recording pilot
14 project implemented under this section.

15 (c) The Attorney General may enact any additional regulations
16 necessary to ensure the security of a system based upon digital
17 electronic records, including regulations related to the acceptance
18 of a document containing an electronic signature or digital
19 notarization.

20 (d) The Attorney General shall conduct an evaluation of the
21 pilot projects and report to both houses of the Legislature on or
22 before June 30, 2007. The Legislature may, based on this
23 evaluation, consider whether the pilot project should be expanded
24 or extended, or limited or terminated.

25 (e) Subject to the requirements of this article, a pilot project
26 established under subdivision (a) that is in lawful operation on
27 June 30, 2007, may continue in operation until December 31,
28 2010.

29 (f) This section shall remain in effect only until January 1,
30 2011, and as of that date is repealed, unless a later enacted statute,
31 that is enacted before January 1, 2011, deletes or extends that date.

32 27399. (a) Nothing in this article shall be construed to
33 authorize any public agency to intrude upon the autonomy or
34 business practices of the county recorders of the State of California
35 in any manner not specifically set forth in this article.

36 (b) If a district attorney or county counsel for a county
37 developing an electronic recording delivery system or the
38 Attorney General reasonably believes that a system operated
39 pursuant to this article has been compromised by fraud or
40 intrusion, he or she shall immediately take the necessary steps to

1 alert the county recorder to guard against any compromise of the
2 system that may result in the suspension of electronic recording.

3 27399.5. The authority granted in this article is in addition to
4 any other authority or obligation under California or federal law.
5 Nothing in this article shall be construed to repeal or affect Section
6 27279, 27279.1, 27279.2, or 27279.3.

7 SEC. 4. This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety
9 within the meaning of Article IV of the Constitution and shall go
10 into immediate effect. The facts constituting the necessity are:

11 In order that county recorders may alleviate fiscal constraints by
12 implementing electronic recording delivery systems at the earliest
13 possible time, it is necessary for this act to take effect immediately.

